

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Hisakazu HOJO et al

Serial No.: 10/046,277

Group Art Unit: 1761

Filed : January 16, 2002

Examiner: PRATT, HELEN F

For : INORGANIC PARTICLES-CONTAINING ADDITIVE COMPOSITION,
MANUFACTURING METHOD THEREOF AND FOOD COMPOSITION
CONTAINING THE ADDITIVE COMPOSITION

DECLARATION

Honorable Commissioner of Patents
and Trademarks

Washington, D.C. 20231

Sir:

Naoki KUBOTA, a citizen of Japan residing at Maruo
Calcium Company Limited of 1455, Nishioka, Uozumi-cho, Akashi-
shi, Hyogo 674-0084 Japan, being duly sworn depose and says
that:

1. I graduated from Master Course of Pharmaceutical
Research, Graduate School of Kobe Gakuin University in 1995. I
was employed by Maruo Calcium Company Limited on April 1, 1995.
Since that date, I have been engaged mainly in research and
development of food additives, and in services as a food
sanitation administrator and administrative pharmacist up to
today. I have numerous patents and patent applications on those
subjects.

2. I am one of inventors of the present invention. I have studied and am fully familiar with this specification and claims, the cited references and the Office Action dated 02/18/2004.

3. I followed Example 1 comprising a general composition as well as Example 12 of Buddemeyer et al (US 6,248,376) and measured the amount of alkali metal X (mg/Kg) and the electric conductivity Y (mS/cm) in the same manner as described in the specification of the present invention. The measured results are shown in the following table.

Buddemeyer et al.	Ca (mol)	KOH (mol)	Citric acid (mol)	Phosphoric acid (mol)	X (mg/ Kg)	Y (mS/ Kg)
Example 1	2.29	2.00	1.00	1.35	138000	28.0
Example 12	2.80	3.60	1.00	1.88	190000	41.8

4. As apparent from the measured results shown in the above table, it is understood that both Example 1 and Example 12 of Buddemeyer et al. do not satisfy (a) $70 \leq X \leq 90000$ and (b) $0.1 \leq Y \leq 15$ of the present invention.

5. All statements made herein are believed to be true; and further that these statements were made with the knowledge

that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated this 6th day of August, 2004

Naoki Kubota

Naoki KUBOTA

176 / Pub.

TELEFAX TRANSMISSION COVER SHEET

TO: EXAMINER **Helen F. Pratt**
U.S. Patent & Trademark Office
Group Art Unit: **1761**
Fax No: **(571) 273-1404**

FROM: James E. Armstrong IV
OF
ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP

RE: U.S. PATENT APPLICATION
SERIAL NO. **10/046,277**
Atty. Docket No.: **020048**

OK by b
sent
10/18/04

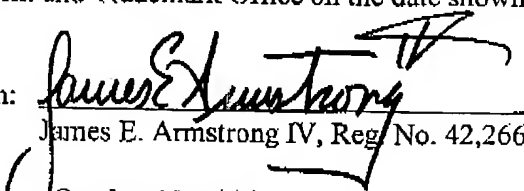
**Courtesy Copy of Declaration
filed on August 18, 2004**

If all pages not received, please call the above-identified
attorney at local telephone no. 202-659-2930.

Certification of Facsimile Transmission

I hereby certify that this paper, a Declaration filed in the USPTO along with the Response
on August 18, 2004 (3 pages and 1 page cover sheet for total of 4 pages), are being facsimile
transmitted to the U.S. Patent and Trademark Office on the date shown below.

Person signing certification:


James E. Armstrong IV, Reg. No. 42,266

October 18, 2004

Date

Atty. Docket No. 020048